

FORM TO BE USED BY FEDERAL PRISONER IN FILING A PETITION FOR WRIT OF HABEAS CORPUS

UNDER 28 U.S.C. § 2241

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF

Mass. Boston

ALFREDO SATO AVITIA

Petitioner

47825-080

14-3 Cell 318-7, M.C. Devens

P.O. Box 879

Ayer, Mass. 01432

(Full name under which you were convicted;  
prison number; and full mailing address.)

Vs. U.S.A. and

CIVIL ACTION NO.

David L. Winn-Hadden

04-40076

Respondent

F.M.C. Devens, Mass.

P.O. Box 880

Ayer, Mass. 01432

(Name of Warden or other authorized person  
having custody of petitioner.)

PLEASE COMPLETE THE FOLLOWING. READ THE ENTIRE PETITION BEFORE FILLING IT OUT.  
ANSWER THOSE QUESTIONS WHICH PERTAIN TO YOUR TYPE OF CLAIM.

1. This petition concerns: (Check appropriate blank.)

☒

a conviction

☒

a sentence (CAUTION:

If you are attacking a sentence imposed under a federal judgment, you must first file a direct motion under 28 U.S.C. § 2255 in the federal court which entered the judgment.)

☐

jail or prison conditions

☐

prison discipline

☐

a parole problem

☒

other.

State briefly:

Grand Jury Indictment

2. Place of detention: N-3 cell 318 F.M.C. Doron, Mass  
P.O. 879 Ayers, Mass. 01432

3. Have you filed previous petitions for habeas corpus, motions under 28:2255, or any other applications, petitions or motions with respect to this conviction?

☐ Yes ☒ No

If your answer above is "Yes," give the following information:

a. Name of Court: \_\_\_\_\_

b. Nature of Proceeding: \_\_\_\_\_

c. Grounds raised: \_\_\_\_\_

d. Result: \_\_\_\_\_

e. Date of Result: \_\_\_\_\_

f. Citation or number of any written opinion or order entered pursuant to each such disposition: \_\_\_\_\_

4. If you did not file a motion under Section 2255 of Title 28, U.S.C., or if you filed such a motion and it was denied, state why your remedy by way of such motion is inadequate or ineffective to test the legality of your detention:

Petitioner is a layman at law and was never  
advised nor informed of his rights to petition  
for a writ of Habeas corpus Nor 28 U.S.C. 2255  
and was not prior provided forms for that  
Purpose

5. Are you presently represented by counsel? ☐ Yes ☒ No

If so, name, address and phone number of counsel: \_\_\_\_\_

6. Name and location of court which imposed sentence:  
United States District Court,  
Western District of Texas
7. Indictment or case number, if known: N/A - See - Court Records
8. Offense or offenses for which sentence was imposed:  
N/A - See Court Records
9. Date upon which sentence was imposed and the terms of the sentence:  
09-12-2002, See Court Records
10. When was a finding of guilty made? (Check one.)  
☒ After a plea of guilty  
☐ After a plea of not guilty  
☐ After a plea of nolo contendere
11. If you were found guilty after a plea of not guilty, was that finding made by:  
☐ A jury  
☒ A judge without a jury
12. Did you appeal from the judgment of conviction or the imposition of sentence?  
☐ Yes ☒ No Was Not Advised of My Rights To Appeal
13. If you did appeal, give the following information for each appeal:
- a. Name of Court: \_\_\_\_\_
- b. Result: \_\_\_\_\_
- c. Date of Result: \_\_\_\_\_
- d. Citation or number of opinion: \_\_\_\_\_
- e. Grounds raised: (List each one.)  
\_\_\_\_\_  
\_\_\_\_\_

Note: If you appealed more than once, attach an additional sheet of the same size and give all the information requested above in question No. 13, a through e. Do not write on the reverse of pages.

14. State CONCISELY every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary, attach a single page behind this page.

CAUTION: If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

- a. Ground one: The Grand Jury Had Insufficient evidence and Poor Legal Proof of The Statement of The Offense in the indictment  
To State the offense as stated and return the indictment

Supporting FACTS: (Tell your story BRIEFLY without citing cases or law. You are CAUTIONED that you must state facts, not conclusions, in support of your grounds. A rule of thumb to follow is -- who did exactly what to violate your rights at what time or place.)

All Grand Jury Records and See  
All Phy. Records Relating To Petitioner

- b. Ground two: The Court Allowed The Guilty Plea Without  
requiring proof of guilt and explanation of How guilty

Supporting FACTS:

See All Court Records  
and See All Phy. Records Relating To Petitioner.

- c. Ground three: Guilty Plea Was Entered And Agreed To  
Thinking A Lesser Sentence Would be imposed  
as stated By Defense Counsel to Petitioner,

## Supporting FACTS:

See all Court Records and  
question Prosecutors and the  
Defense Counsel And See All  
Phys. Records Relating To Petitioner.

15. RELIEF: State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

- (1) All Charges Dismissed With Prejudice,
- (2) Reduction of Sentence
- (3) Maximum Compensation in the case of final sentencing through a miscarriage of justice and for all time in custody and all time incarcerated.
- (4) 18 U.S.C. 1201 by Judicial Processes as was applied to Petitioner.

Signed this 12 day of April, 2004.  
Day Month Year

ALFREDO SAIZO  
Signature of Petitioner

I declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

Executed on 4-12-04.  
(Date)

ALFREDO SAIZO  
Signature of Petitioner

The Court will have to make and serve all requires  
copies hereof. Petitioner can not do so himself  
and don't know how.